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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,430

03/16/2004

John Kim

81095567

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32994

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09/25/2007

MILLER LAW GROUP, PLLC
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WEST LAWN, PA 19609

EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

09/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,430

Applicant(s)

KIM ET AL.

Examiner

Corey N. Skurdal

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 11 and 17 is/are rejected.
- 7) ☒ Claim(s) 6-9, 12-16, and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Audet (US 4,826,387).

Regarding claim 1, Audet discloses laterally disposed side rail members 37, there being four such that a pair of front and a pair of rear side rail members may be defined, a plurality of storage surfaces being defined by the assemblies 14, and each side rail member being pivotally movable about hinge bars 38 between a raised basket forming position and a lowered collapsed position (Figure 4).

Regarding claims 3 and 4, Audet discloses front and rear transverse rail members 34 which form said basket with said side rail members, said transverse rail members being considered pivotally movable in a longitudinal direction at pivot 26.

Regarding claim 5, the rack of Audet discloses laterally disposed storage surface devices 28, each storage surface device being movable laterally relative to the other as shown between Figure 3 and 4.

3. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Fagan (GB 2,078,642 A). Fagan discloses a roof rack apparatus comprising: a pair of laterally disposed front side rail members defined on storage surface devices 8/9, the storage

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surface device 8 having a first front side rail 19/20 and the assembly 9 having a second front side rail member 27/28, each having a hinge bar 11/22 for pivotal movement between a raised basket forming position and lowered collapsed position that is spaced inwardly of the raised position (see Figures 2 and 3); a pair of laterally disposed rear side rail members defined at the second set of assemblies 8 and 9 on the right side of Figure 2, the rear side rail members being identical to the front side rail members and moving independently of each other.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Audet (US 4,826,387).

Regarding claim 10, Audet discloses the invention substantially as claimed including: a pair of laterally disposed rear side rail members 34 on each side of centerline 20, said side rail members being laterally movable independently of each other (as shown between Figure 3 and 4), and wherein two laterally opposed storage surface devices are disposed on each side of the centerline 20 by the assembly 14, each storage surface device being laterally movable relative to the other said device. Audet does not disclose a pair of laterally disposed front side rail members. However, as vehicles come in various shapes and sizes, it would have been obvious to one

having ordinary skill in the art at the time the invention was made to provide a second storage rack taught by Audet on to large vehicle having greater roof space, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In doing so a pair of laterally disposed front side rail members would be defined on the roof of the vehicle, such that four side rail members, each being independently movable relative to the other, would be defined.

Regarding claim 11, the modified Audet device discloses track members 23, a plurality of longitudinally extending support members 15; and a pair of connecting members 22 slideably received in guide rails 16 mounted to said vehicle roof portion, each connecting member pivotally connected to the track members at 26, to permit pivotal and lateral movement along the side of the vehicle.

Response to Arguments

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

7. Claims 6-9, 12-16, and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey N. Skurdal whose telephone number is 571-272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS
9/17/07


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER